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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,415	01/27/2004	Joseph J. Kelly	0301	4152
2057	7590	11/30/2006	EXAMINER	
EUGENE CHOVANES JACKSON AND CHOVANES SUITE 319 ONE BALA PLAZA BALA CYNWYD, PA 19004			JUNKER, JONATHAN T	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,415

Applicant(s)

KELLY ET AL.

Examiner

Jonathan T. Junker

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/27/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-6 are pending and are examined below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "beyond" in claims 1, 4 and 5 is a relative term that renders the claims indefinite. The term "beyond" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention.

Claim 4 recites the limitation "the inclined segment" on line 4 of the claim. There is insufficient antecedent basis for this limitation in the claim. There is antecedent basis for the term in claim 2, however, there is insufficient antecedent basis for the term in claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis US Patent 3,798,865.

Regarding claim 1, Curtis discloses a clip that attaches to an angle wall molding with a face and a ledge, and supports a beam end in a suspended ceiling, the clip having a first leg (52 fig 2) that attaches to and extends along the wall molding (18 fig 5), and a second leg (30 fig 5) that supports the end of the beam (28 fig 5) and that extends away from the wall molding ledge at a right angle to the first leg; the improvement comprising a second (30 fig 5) that extends above and beyond a wall molding ledge (the horizontal flange 20 fig 5 of the wall molding). Curtis discloses a slot capable of receiving a screw (78 fig 5) that extends through the slot (68 fig 5) into the web of the end of the beam (26 fig 5) being supported in the clip, wherein the screw is free to slide in the slot during an earthquake and support the end of the beam in the clip. Curtis does not disclose that the slot is inclined upward and away from the first leg. However angled slots are very well known in the art for improving adjustability. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow for a greater adjustability of the clip.

Regarding claim 3, Curtis discloses the clip of claim 1, wherein the screw is capable of being tightened in the slot to fix the beam in the clip so that it does not slide in the clip during an earthquake. This is a recitation of an obvious design choice; all screws can be tightened to clinch two pieces of material together.

Regarding claim 4, Curtis discloses the clip of claim 1, wherein the end of the beam (28 fig 5), during an earthquake, is elevated and supported above and beyond the wall molding ledge during the travel of the screw (78 fig 5) in the inclined segment of the slot.

Regarding claim 5, Curtis discloses the clip of claim 1 wherein the end of the beam (28 fig 5), during an earthquake, is supported from the clip in a position where the end of the beam is beyond the wall molding ledge (20 fig 5) in a direction away from the wall molding face, and above the wall molding ledge.

Regarding claim 6, Curtis discloses the clip of claim 1, however the phrase "The use of the clip in a suspended ceiling in geographical zones prone to seismic events." is a recitation of intended use, which does not further limit the structural features of the claimed invention. It has been held that a recitation regarding the manner in which a claimed apparatus is intended to be used does not differentiate the claimed apparatus from a prior art apparatus which satisfies the claimed limitations.

Claim Objections

Claims 2 and 3-6 that depend on claim 2 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan T. Junker whose telephone number is (571)272-4020. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JTJ
11/26/2006



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